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 United States of America

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Criminal Case No. 07CR3355-LAB
)	
Plaintiff,)	DATE: March 20, 2008
)	TIME: 9:00 a.m.
v.)	
)	
MARK NEEL,)	UNITED STATES' PROPOSED
)	JURY INSTRUCTIONS
Defendant.)	

COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Steve Miller, Assistant U.S. Attorney, and hereby files its proposed jury instructions in the above-referenced case. The United States also requests leave to offer further jury instructions as may become relevant during the course of trial.

DATED: March 20, 2008.

Respectfully submitted,

KAREN P. HEWITT
 United States Attorney

s/Steve Miller
 STEVE MILLER
 Assistant United States Attorney

COURT'S INSTRUCTION NO. _____

GOVERNMENT'S PROPOSED INSTRUCTION NO. 1

The defendant is charged in Count 1 of the indictment with bringing an alien to the United States for the purpose of commercial advantage or private financial gain, in violation of Section 1324(a)(2)(B)(ii) of Title 8 of the United States Code and Section 2 of Title 18 of the United States Code.

In order the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly and intentionally brought a person who was an alien to the United States for the purpose of personal commercial advantage or personal private financial gain:

Second, the defendant knew or was in reckless disregard of the fact that the person was an alien who had not received prior official authorization to come to, enter or reside in the United States;

Third, the defendant acted with the intent to violate the United States immigration laws.

An alien is a person who is not a natural-born or naturalized citizen of the United States.

The terms "commercial advantage" and "private financial gain" mean any economic benefit.

COURT'S INSTRUCTION NO. _____

GOVERNMENT'S PROPOSED INSTRUCTION NO. 2

A defendant may be found guilty of bringing an illegal alien to the United States for commercial advantage or financial gain, even if the defendant personally did not commit the act or acts constituting the crime but aided and abetted in its commission. To prove a defendant guilty of aiding and abetting, the government must prove beyond a reasonable doubt:

First, some individual brought an alien to the United States for commercial advantage or financial gain.

Second, the defendant knowingly and intentionally aided, counseled, commanded, induced or procured the individual(s) to commit the crime of bringing in the illegal aliens for the individual's commercial advantage or private financial gain; and

Third, the defendant acted before the crime was completed.

It is not enough that the defendant merely associated with the person committing the crime, or unknowingly or unintentionally did things that were helpful to that person, or was present at the scene of the crime.

The evidence must show beyond a reasonable doubt that the defendant acted with the knowledge and intention of helping that person commit the crime of bringing in an illegal alien for commercial advantage or financial gain.

The government is not required to prove precisely which person actually committed the crime and which person aided and abetted.

COURT'S INSTRUCTION NO. _____

GOVERNMENT'S PROPOSED INSTRUCTION NO. 3

The defendant is charged in Count 2 of the indictment with failing to present an alien who was brought to the United States upon arrival, in violation of Section 1324(a)(2)(B)(iii) of Title 8 of the United States Code and Section 2 of Title 18 of the United States Code.

In order the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant brought a person who was an alien to the United States and upon arrival did not immediately bring and present the alien to an appropriate immigration official at a designated port of entry;

Second, the defendant knew or was in reckless disregard of the fact that the person was an alien who had not received prior official authorization to come to, enter, or reside in the United States;

Third, the defendant acted with the intent to violate the United States immigration laws.

An alien is a person who is not a natural-born or naturalized citizen of the United States.

The terms "commercial advantage" and "private financial gain" mean any economic benefit.

COURT'S INSTRUCTION NO. _____

GOVERNMENT'S PROPOSED INSTRUCTION NO. 4

A defendant may be found guilty of bringing an illegal alien to the United States for commercial advantage or financial gain, even if the defendant personally did not commit the act or acts constituting the crime but aided and abetted in its commission. To prove a defendant guilty of aiding and abetting, the government must prove beyond a reasonable doubt:

First, some individual brought a person who was an alien to the United States and upon arrival did not immediately bring and present the alien to an appropriate immigration official at a designated port of entry;

Second, the defendant knowingly and intentionally aided, counseled, commanded, induced or procured the individual(s) to commit the crime of bringing in the illegal aliens for the individual's commercial advantage or private financial gain; and

Third, the defendant acted before the crime was completed.

It is not enough that the defendant merely associated with the person committing the crime, or unknowingly or unintentionally did things that were helpful to that person, or was present at the scene of the crime.

The evidence must show beyond a reasonable doubt that the defendant acted with the knowledge and intention of helping that person commit the crime of bringing in an illegal alien for commercial advantage or financial gain.

The government is not required to prove precisely which person actually committed the crime and which person aided and abetted.

1 UNITED STATES OF AMERICA

2 SOUTHERN DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA,) Criminal Case No. 07cr3355LAB
4)
5 Plaintiff,)
6) CERTIFICATE OF SERVICE
7 v.)
8)
9 MARK NEEL,)
10)
11 Defendant.)
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9 IT IS HEREBY CERTIFIED THAT:

10 I, Steve Miller, am a Citizen of the United States over the
11 age of eighteen years and a resident of San Diego county,
12 California. My business address is 880 Front Street, San Diego,
13 California 92101-8893. I am not a party to the above-entitled
14 action. I have caused service of the United States Proposed Jury
15 Instructions on the following parties by electronically filing the
16 foregoing with the Clerk of the District Court using its ECF
17 system, which electronically notifies them.

18 1. Robert Rexrode

19 I hereby certify that I have caused to be mailed the
20 foregoing, by the United States Postal Service, to the following
21 non-EFC participants on this case n/a the last known address, at
22 which place there is delivery service of mail from the United
23 States Postal Service.

24 I declare under penalty of perjury that the foregoing is true
25 and correct.

26 Executed on March 20, 2008.

27 s/Steve Miller
28 STEVE MILLER